

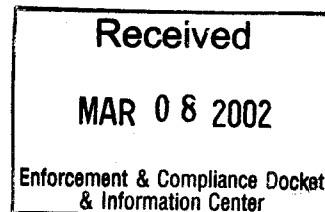
ADEQ

ARKANSAS
Department of Environmental Quality

EC-2000-007
1U-P-173

February 26, 2002

United States Environmental Protection Agency
Enforcement and Compliance Docket and Information Center
Mail Code 2201A
Attn: Docket # EC-2000-007
1200 Pennsylvania Avenue, N.W.
Washington, DC, 20460



SUBJECT: Arkansas Department of Environmental Quality (ADEQ) Comments on Proposed EPA Electronic Reporting and Electronic Records Rule (CROMERRR); Docket # EC-2000-007

Dear Sir/Madam:

Thank you for the opportunity to comment on EPA's proposed electronic reporting and records rule. We offer the following three general remarks followed by an attachment of comments to specific sections.

1. We support whole-heartedly EPA's move to electronic reporting and record keeping; however, the proposed "approval" process is burdensome and prescriptive. EPA has delegated many of its programs to the states, and accordingly, states act in full partnership with EPA. With this delegation, the states have already assumed the responsibility for ensuring that required records and reports are generated and submitted properly.

We strongly suggest that EPA use the delegation agreement as a vehicle whereby the state agrees to follow the specified performance criteria for electronic reporting/record keeping.

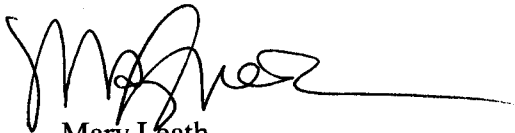
2. Electronic record keeping requirements for delegated states seem reasonable if the rule is interpreted to apply to state electronic data submission systems. This does not hold true if applied to regulated industry. For them, meeting these requirements would be a significant impediment toward implementing, maintaining and/or participating in an electronic reporting program.
3. The proposed language seems overly prescriptive. EPA has stated its intent to provide performance criteria; the proposed language goes beyond stated performance criteria and enumerates specific requirements (Section 3.2000).

We strongly suggest that EPA modify the proposed language to focus only on performance goals and criteria. If necessary, EPA can cite nationally accepted standards for secure electronic transactions, record keeping, etc.

We look forward to continuing to work with EPA on refining electronic record keeping and reporting as these efforts can result in reduced cost, improved data quality and more accessible local and national environmental information systems. As we have stated, this rule should be both flexible and performance-based. As it is presently constructed, it presents significant impediments to both state environmental agencies and regulated industry.

We have provided additional comments on specific areas of the rule in the attached table. Once again, thank you for the opportunity to comment on this important rulemaking.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mary Leath', with a long horizontal flourish extending to the right.

Mary Leath
Chief Deputy Director

Arkansas Department of Environmental Quality (ADEQ)
Comments on Proposed Rule, 40 CRF Part 3, Electronic Reporting; Electronic Records (CROMERRR)
EPA Docket Number EC-2000-007
February 26, 2002

Proposed Rule Section	ADEQ Comments
<p>Sec. 3.1 Scope. What is covered by this part?</p>	<p>The scope is not clear. Does “electronic record-keeping” refer to field and laboratory records, facility operating records, permit applications, etc., or is it limited only to the routine compliance reporting such as self-monitoring reports submitted under a variety of EPA regulatory programs? Is this rule applicable to permit applications, notices of intent, or other “electronic documents” that may be submitted in lieu of paper submissions?</p> <p>The proposed rule does not seem to allow the use of hard copy records for record keeping purposes, even if the original record was derived from electronic (digital) data acquisition systems, such as stream gauging equipment, auto-analyzers, etc. Please clarify that the rule will allow anyone to use paper records created from electronic data gathering systems to satisfy the record keeping requirements.</p>
<p>Sec. 3.2 Implementation. What requirements may be satisfied by electronic reporting and electronic record keeping?</p>	<p>Conditioning electronic reporting upon obtaining a program amendment is both unnecessary and unworkable. Changes in testing methods do not require a program amendment, so the procedure for reporting the test results should not require one.</p>

Proposed Rule Section

ADEQ Comments

Sec. 3.10 What are the requirements for acceptable electronic documents?

The proposed regulation limits acceptable electronic documents to those bearing an electronic signature that is "created by a person who is authorized to sign the document, with an electronic signature device that this person is authorized to use." This requirement describes a PKI process -- other technologies will have great difficulty meeting this.

Subpart C Electronic recordkeeping under EPA programs.
Sec. 3.100. What are the requirements for acceptable electronic records?

The proposed rule will create "additional" record keeping requirements. This will make it impractical to implement this rule by both states and industry. Current environmental regulations require records of the submissions and, in certain cases, information used to either generate submissions or demonstrate compliance. They do not require a rigorous audit-trail record keeping system as proposed under this rule. The CROMERRR rule should focus only on the "submission". The underlying data used to generate the "submission" has been properly regulated by present day methods. We feel that existing record keeping requirements should remain unchanged for industries that elect to participate in electronic reporting.

Agency receiving systems should be able to provide services to regulated entities to implement many of the requirements for acceptable electronic record keeping. The Agency receiving system can provide services when used by both the agency and the regulated entity as the system that maintains the unalterable and secure electronic documents, including the requisite audit trails.

Proposed Rule Section	ADEQ Comments
<p>Subpart D Electroinc reporting and record keeping under EPA-approved State programs. Sec. 3.1000 How are authorized State, tribal or local environmental programs modified to allow electronic reporting?</p>	<p>The proposed rule should specify that the state, tribe, or local government can demonstrate <u>in writing</u> that electronic reporting under the program will meet requirements. In addition, requiring a program amendment before a state can accept electronic documents for that program is unnecessary and burdensome. Changes in testing methods do not require a program amendment, so the procedure for reporting the test results should not require one.</p>
<p>Sec. 3.2000 What are the criteria for acceptable electronic document receiving systems.</p>	<p>A receiving system should have the capability of allowing a participating facility to submit corrections and addendums to earlier submissions at some later date after online viewing from the receiving system.</p>